

Section 3 of the Retailers' Occupation Tax, 35 ILCS 120/3 (1996 State Bar Edition) states that if a taxpayer's average monthly tax liability to the Department was \$10,000 or more during the preceding 4 complete calendar quarters, the taxpayer is required to make payments to the Department on or before the 7th, 15th, 22nd and last day of the month. (This is a GIL).

June 22, 1999

Dear Ms. Xxxxx:

Thank you for your recent letter to Governor Ryan. In your letter, you ask several questions about quarter-monthly payment requirements. Your letter indicates that you recently received a notice requiring you to make quarter-monthly payments. In your letter you state:

I just received the enclosed bulletin from the Illinois Department of Revenue, and I can not begin to tell you how angry I was. First, using this new plan, we will be required to pay all of June's sales taxes no later than July 20 while also paying at least two installments of July's taxes. We were given a mere month's notice of this change.

Secondly, since we pay our sales taxes on receipts, not sales, and since we do both repairs (including non-taxable labor) and sell to many institutions (schools and churches), estimating from last year's taxes is hardly feasible. There are simply too many variables. Yet, if we are underpaid, we will be penalized and I'm sure charged a hefty amount of interest. Are we supposed to overpay (or try to) to protect ourselves? Are we supposed to leave that overpayment there or use it and hope not to underpay the next month? I find this is a totally unrealistic and potentially punitive system, and I believe it only fair that we have actual sales and tax figures in our hands before we are required to pay the tax. I simply can not get that on a weekly basis, and I am sure there are many other companies in the same situation. How was this change authorized? Is there any relief?

I understand your frustration at being required to pay your sales taxes on a quarter-monthly basis. However, the requirement that taxpayers make quarter-monthly payments once they meet certain liability thresholds is statutory. Such requirements are not new. Taxpayers have been subject to quarter-monthly payment obligations since 1969. When reporting and payment requirements, such as these, are statutory in nature, the Department has no authority to waive them.

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I can provide you with some good news, however. It has long been the Department's opinion that the liability thresholds triggering quarter-monthly payments need to be updated. The current thresholds have been in effect since 1974. While an average liability of \$10,000 was large in 1974, it is not large in 1999. Consequently, many small businesses find the current thresholds burdensome. To correct this problem, the Department has proposed legislation which raises the liability threshold to \$20,000. Senate Bill 1118, if signed by Governor Ryan, will change the thresholds effective October 1, 2000. We believe our legislation will benefit small businesses, such as yours, that find quarter-monthly payments difficult.

If Senate Bill 1118 becomes law and you are under the new thresholds, you will no longer be required to remit quarter-monthly payments. Your quarter-monthly payment obligations would cease on October 1, 2000, which is the date the new thresholds become effective. Until then, however, you are required to make quarter-monthly payments.

As we indicated in our earlier correspondence, there are two ways to properly determine the amount of your quarter-monthly payments. The first is to remit estimated payments in an amount equal to 22.5% of your *actual liability for the current month*. If this is a difficult estimation because of the nature of your business, you may use the alternative method of remitting an amount equal to 25 percent of the *actual liability for the same month of the preceding year*. This latter method does not involve any estimating. Instead, you would work from figures on your ST-1 returns filed last year for the same reporting month. You would examine last year's return to find your total tax liability for that month, divide that amount by four and then remit that amount as a weekly estimated payment. You will not incur penalties or interest as long as you properly determine your payments and timely remit them.

Taxpayers may cease making quarter-monthly payments in limited circumstances. The first is when the taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9000, or when the taxpayer's average monthly liability for each calendar quarter of the 4 preceding complete calendar quarter periods is less than \$10,000. The other circumstance is when a taxpayer can show that a "substantial change" in his business has occurred which causes him to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below \$10,000. If this change is seasonal, or is not likely to be long-term, the Department must deny the request.

In your letter, you mention that you "pay your taxes on receipts, not sales." We assume that you are reporting taxes on a gross receipts method, which is preferred. If you are filing on a gross sales basis, however, we urge you to speak to PERSON, whose telephone number appears below. Filing on a gross sales basis may complicate your quarter-monthly payment situation.

We apologize for the inconvenience that was caused by our notification. The Department makes every attempt to provide taxpayers with advance notice of their

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new quarter-monthly filing responsibilities. Generally, we find that commencement of quarter-monthly payments in the quarter following our determination that thresholds have been met is sufficient. However, we acknowledge that there will always be a burden associated with the switchover.

While we cannot waive your obligation to remit quarter-monthly payments, we hope that our proposed legislation will benefit you in the future. In the meantime, if you have questions involving any aspect of your quarter-monthly payments, please feel free to contact PERSON at ####. She would be happy to assist you in whatever way possible.

I hope that this information is helpful.

Very truly yours,

Glen L. Bower
Director of Revenue

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